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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/223,016	12/30/1998	SCOTT L. MINNEMAN	100126	2341

7590

12/09/2005

OLIFF & BERRIDGE
P O BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

NGUYEN, HUY THANH

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 12/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 09/223,016	Applicant(s) MINNEMAN ET AL.	
	Examiner HUY T. NGUYEN	Art Unit 2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 November 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1,4,6-10,13,15-21 and 23-26.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: See attachment.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____.

Response to Arguments

1. Applicant's arguments filed 09 November 2005 have been fully considered but they are not persuasive.

Applicant argues that " none of the applied art teaches, discloses or suggests a playback system for replaying a first indexed recording that allows simultaneous recording of the activity while replaying the first indexed recording, and a recording system that records the activity and allows the previously indexed recording (first indexed recording) to be rerecorded and inserted in a current second indexed recording, as recited in claim 1 and similarly claimed in claim 10".

In response, it is noted that Hibi as modified with Lang teaches inserting a previous indexed into a current second indexed since Hibi teaches indexing segments of activity recordings during recording or reproducing and Lang teaches editing , inserting , arranging or re-arranging segments of activity recordings stored on media or receiving from external sources . The combination of Hibi and Lang will teach the activity being recorded or reproduced can be indexed, the indexed recordings can be stored in the medium 13 and medium 23 by copying the indexed recordings from a medium to the other medium (See Lang column 9, lines 30- 54) . During the copying of the recordings , an editing means DCU can be utilized to edit the recordings read from the medium 11 and medium 23 based on the selection of a user . The previously indexed recording (first indexed) from the medium 13 can be inserted into a current indexed reproduced from the medium 23 and recorded into current indexed recording on the medium 23 or medium 13 upon the selection of the user

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since Lang teaches that the segments of recordings from medium 11 and 13 can be selectively inserted arranged or rearranged (column 6, lines 23-50, column 16, lines 23-35) under controlling by the user. It is clear that Hibi as modified with Hibi teaches inserting a previous indexed recording (first indexed recording) into a current indexed recording and rerecorded under controlling by the user operating the editing means DCU.

Applicant further argues that "consistent with Applicants' Fig. 6 and page 5, lines 8-14, the recited playback system and method "allows simultaneous recording of the activity and playback of the recording, so that activity participants may review a previously recorded and indexed activity **while that review is simultaneously being recorded and indexed to the correct index.**" In response, it is noted that applicant argument does not reflect the claims since nowhere claims do they recite that "that review is simultaneously being recorded and indexed to the correct index. Is the first indexed recording re-indexed ?

Applicant argues that "At best, Lang teaches that editing and replay can occur while recording. However, these are discrete activities. Nowhere in Lang is there any teaching or suggestion that would have enabled one of ordinary skill in the art to modify Hibi so that the indexed recording that is **being replayed or edited is re-recorded simultaneously and indexed to the current second indexed recording**, such as that performed in Applicants' Fig. 6 and recited in independent claims 1 and 10." In response, it is noted that applicant argument does not reflect the claims.

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2. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUY T. NGUYEN whose telephone number is (571) 272-7378. The examiner can normally be reached on 8:30AM -6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Groody can be reached on (571) 272-7950. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

H.N


HUY T. NGUYEN
PRIMARY EXAMINER